

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICROMESH TECHNOLOGY
CORPORATION,

Plaintiff,

v.

COLUMBIA SPORTSWEAR COMPANY,
Defendant.

No. C 06-06031 CRB

**ORDER GRANTING SUMMARY
JUDGMENT OF INVALIDITY**

Plaintiff filed this patent infringement action against defendant sportswear company alleging that defendant's use of "Windstopper Tornado fabric" in its various clothing products infringe 13 claims of U.S. Patent No. 5,935,878 ("the '878"). Defendant answered the complaint and filed a counterclaim for a declaration that the '878 is invalid.

Now pending before the Court for decision is defendant's motion for summary judgment. Defendant contends that the '878 is invalid because the Windstopper Tornado fabric was on sale in the United States more than one year before the filing date of the '878. After plaintiff received defendant's motion it conducted additional discovery, including taking the depositions of defendant's summary judgment declarants. After review of the motion, the additional discovery, and in reliance on the representations of defendant's counsel, plaintiff has notified the Court that it does not oppose defendant's motion for summary judgment.

1 Accordingly, defendant's motion for summary judgment on its claim that the '878 is
2 invalid is GRANTED.

3 **IT IS SO ORDERED.**

4 Dated: May 15, 2007



5 CHARLES R. BREYER
6 UNITED STATES DISTRICT JUDGE
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